IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

WRIT PETITION NO.1170 OF 2007

Ghanshyam H. Trivedi & ors. ...Petitioners.
Vs.
State of Maharashtra & Ors. ...Respondents.

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Mr. Kunal Vajani i/b. Wadia Ghandy & Co. for the Petitioners.
Mr. K. R. Belosey AGP for Respondent No.1 and 2.
Mr. H. Toor i/b. M/s. M. V. Kini & Co. for Respondent No.3.

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CORAM : SWATANTER KUMAR, C.J. &
DR.D.Y.CHANDRACHUD, J.

July 26, 2007.

P.C. :

The challenge in the present Writ Petition is to the order dated 17th October 2006 by which certain directions were made to the City Survey Officer to take possession of the land from the person in possession. The grievance of the Petitioner is that this order is based upon an order dated 15th September 2006 passed by the appropriate authority recalling the earlier order of 1st October 2004 passed by the concerned Minister while exercising his powers under Section 34 of the Urban Land (Ceiling and Regulation) Act, 1976. On behalf of the State it is urged that the order passed under Section 34

of the Act was without jurisdiction and was in fact non-est in law since the order which was set aside by the Minister was an appellate order and did not fall for revision under Section 34. Section 34 of the Act excludes recourse to revisional powers in case any order is passed in appeal.

2. It is not necessary for us to examine the merits or otherwise of various contentions raised before us. Suffice it to note that the order passed by the Minister under Section 34 of the Act has been set aside by the authority concerned on 15th September 2006 and the impugned order issued in pursuance thereof was without granting any opportunity of being heard to the Petitioners who claim to be in possession of the property in dispute. There is thus an apparent violation of the principles of natural justice. The basic rule of law requires that any administrative or quasi judicial order which will have civil consequences must be passed upon observance of the principles of natural justice. In our view, it was necessary for the authority to hear the Petitioners before withdrawing the benefits which accrued to them in terms of the revisional order even if the said order

was, as alleged, passed without jurisdiction.

3. In the circumstances afore noted, we direct the Competent Authority to hear the Petitioners, Respondent No.3 as well as the Collector and to pass an appropriate order within four weeks from today. The order so passed by the authority shall be implemented and possession given to the beneficiary within two weeks thereafter. We further direct the parties to maintain status quo in regard to possession and construction as of today and none of the parties would be entitled to claim any benefit in equity for possessory or constructive rights in the property. Any observations made in this order are without prejudice to the contentions which they may raise before the authority concerned and the authority will not be influenced by the same. The Writ Petition is disposed of . No order as to costs.

CHIEF JUSTICE

Dr.D.Y. CHANDRACHUD, J.